

**Rights & Responsibilities:
The Rights of Requesters and the Responsibilities of the York Poquoson
Department of Social Services (“Department”)
under the Virginia Freedom of Information Act**

The Virginia Freedom of Information Act (FOIA), located at § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

Your FOIA Rights

- You have the right to request to inspect **or** receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

Making a Request for records from the York Poquoson Department of Social Services

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA. From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what

records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect to not put it in writing.

- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.
- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy **records**; it does not apply to a situation where you are asking general questions about the work of the Department, nor does it require the Department to create a record that does not exist.
- If we have questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

To request records from the Department, you may direct your request to Margaret Mack-Yaroch, FOIA Officer. She can be reached at Margaret Mack-Yaroch, 301 Goodwin Neck Road, Yorktown, Virginia 23692, (757) 890-3939, (757) 890-3934 fax, Margaret.mack-yaroch@yorkcounty.gov.

You may also contact her with questions you have concerning requesting records from the Department. In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at foiacouncil@dls.virginia.gov , by phone at (804) 698-1810 or [toll free] 1-866-448-4100 or by fax 804-698-1899.

The York Poquoson Department of Social Services' Responsibilities in Responding to Your Request

- The Department must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.

- The reason behind your request for public records from the Department is irrelevant, and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow the Department to require you to provide your name and legal address.

- FOIA requires that the Department make one of the following responses to your request within the five-day time period:

- 1) We provide you with the records that you have requested in their entirety.

- 2) We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.

- 3) We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.

- 4) We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.

- 5) If it is practically impossible for the Department to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven (7) additional working days to respond to your request, giving us a total of 12 working days to respond to your request.

- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 working days without disrupting our

other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production or the records before we go to court to ask for more time.

Costs

Calculation of charges for York Poquoson Social Services.

- a. Requestors shall be responsible for the actual costs of;
 - Computer machine search time;
 - Staff time for research and review of the records to remove FOIA-Exempt materials; and
 - Any copying or document production costs set forth herein.

Requests to provide information and records in computerized formats will be review on a case-by-case basis and charges will be calculated based on material costs and staff time costs. Including the staff time involved in the receipt, review, coordination, cost estimating, and response to the request.

Staff time charges will be calculated based on a rate of \$25 per hour (which represents the median hourly rate of pay of County employees, excluding fringe benefits or County overhead costs), or the actual hourly rate of the employee performing the response/review, whichever is the lesser amount. The County shall made every effort to have the work performed by the lowest-Level employee reasonably capable for performing the search and copying.

Office Copy Reproduction: Five (5) Pages, or fewer, and up to fifteen (15) minutes of staff time for accessing, and/or copying the material-No Charge;

More than 5 pages - \$0.02 per page

More than fifteen (15) minutes staff time – Actual cost based on the staff-time cost calculations. As noted above in Calculation of charges for York Poquoson Social Services

- If we estimate that it will cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for

more than 30 days, the Department may require payment of the past-due bill before it will respond to your new FOIA request.

Types of records

The following is a general description of the types of records held by the Department:

- Personnel records concerning employees and officials of the Department
- Records of contracts which the Department has entered into
- Health and Social Services records

If you are unsure whether the Department has the record(s) you seek, please contact **Margaret Mack-Yaroch, FOIA Officer**, directly at **301 Goodwin Neck Road, Yorktown, Virginia 23692, (757) 890-3939, (757) 890-3934 fax, Margaret.mack-yaroch@yorkcounty.gov**.

Commonly used exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. The Department commonly withholds records subject to the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Health and Social Services records (§ 2.2-3705.5)

Policies regarding the use of common exemptions

- The general policy of the Department is to invoke the personnel records exemption in those instances where it applies in order to protect the privacy of employees and officials of the Department.
- The general policy of the Department is to invoke the attorney-client privilege and attorney work product records exemptions in those instances where it applies in order to protect written advice of legal counsel, legal memoranda and other work product compiled specifically for use in litigation or administrative investigations.

- The general policy of the Department is to invoke the contract negotiations exemption whenever it applies in order to protect the Department's bargaining position and negotiating strategy.
- The general policy of the Department is to invoke the vendor proprietary information exemption whenever it applies in order to protect vendor proprietary information software that may be in the official records of a public body.
- The general policy of the Department is to invoke the health and social services exemption whenever it applies in order to protect the privacy of those individuals who receive services or are involved in an investigation through the Department.